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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,188	01/22/2002	Mark Gibson	476-2087	4449

23644 7590 10/03/2005

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EXAMINER	
FOX, JAMAL A	

ART UNIT	PAPER NUMBER
2664	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/054,188	GIBSON ET AL.	
	Examiner	Art Unit	
	Jamal A. Fox	2664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 January 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *9* is/are allowed.

6)☐ Claim(s) *1,6-8,11,12 and 14-18* is/are rejected.

7)☒ Claim(s) *2-5,10 and 13* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 April 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 10-17 have been renumbered as 11-18 respectively.

2. Claim 10 is objected to because of the following informalities: Claim 10 line 15, after "and", "returning" is spelled incorrectly. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1,3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 13 recites the limitation "network" in --line 1--. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1, 6-8, 11, 12 and 14-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang et al. (U.S. Patent No. 6,901,048).

The applied reference has a common --*assignee*-- with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Referring to claim 1, Wang et al. discloses a method of setting up a communications session on a label switched (MPLS, col. 5 lines 3-15) path encapsulated (encapsulation, col. 2 lines 60-65, col. 5 lines 49-57, col. 10 lines 46-53, col. 13 lines 1-5, col. 16 lines 16-30; encapsulated, col. 3 lines 5-10, col. 11 line 61 - col. 12 line 8, col. 13 lines 6-29, col. 14 lines 19-30, col. 15 lines 20-40 and col. 16 lines 30-32) within an existing label switched path between a first node (Fig. 1 ref. signs 3 and 5

and respective portions of the spec.) and a second node (Fig. 1 ref. sign 4 and respective portions of the spec.), the method comprising: sending a path setup message (setup message, col. 9 line 61 - col. 10 line 8) from the first node (Fig. 1 ref. signs 3 and 5 and respective portions of the spec.) to the second node (Fig. 1 ref. sign 4 and respective portions of the spec.), wherein said path set up message incorporates an explicit route object containing a tunnel identifier (identifier, col. 8 lines 45-55) for said existing label switched path and an extended tunnel identifier (identifier, col. 8 lines 45-55), said tunnel identifier (identifier, col. 8 lines 45-55) and extended tunnel identifier (identifier, col. 8 lines 45-55) together specifying the label switched path for said communications session.

Referring to claim 6, Wang et al. discloses a method as claimed in claim 1, and further comprising setting up said label switched path (MPLS, col. 5 lines 10-16) within one or more further existing label switched paths accessed via said second node (Fig. 1 ref. sign 4 and respective portions of the spec.).

Referring to claim 7, Wang et al. discloses a method as claimed in claim 1, and performed under control of software (software, col. 7 lines 17-25) in machine readable form on a storage (memory, col. 7 lines 17-25) medium.

Referring to claim 8, Wang et al. discloses a method of reserving a label switched path nested within an existing label switched path so as to establish a communications session between a first node and a second node in a multi-protocol label switched communications network (MPLS, col. 5 lines 3-15), the method comprising: sending a path set up message (setup message, col. 9 line 61 - col. 10 line

8) from the first node (Fig. 1 ref. signs 3 and 5 and respective portions of the spec.) to the second node (Fig. 1 ref. sign 4 and respective portions of the spec.) via one or more intermediate nodes, said path set up message (setup message, col. 9 line 61 - col. 10 line 8) incorporating an explicit route object containing a tunnel identifier (identifier, col. 8 lines 45-55), said tunnel identifier (identifier, col. 8 lines 45-55) and extended tunnel identifier (identifier, col. 8 lines 45-55) together specifying a label switched path for said communications session.

Referring to claim 11, Wang et al. discloses a path setup message (setup message, col. 9 line 61 - col. 10 line 8) for reserving a label switched path nested within an existing label switched path so as to establish a communication session between a first node (Fig. 1 ref. signs 3 and 5 and respective portions of the spec.) and a second node (Fig. 1 ref. sign 4 and respective portions of the spec.) in a multi-protocol label switched communications network (MPLS, col. 5 lines 3-15), said path set up message (setup message, col. 9 line 61 - col. 10 line 8) incorporating an explicit route object containing a tunnel identifier (identifier, col. 8 lines 45-55) for said existing label switched path and an extended tunnel identifier (identifier, col. 8 lines 45-55), said tunnel identifier (identifier, col. 8 lines 45-55) and extended tunnel identifier (identifier, col. 8 lines 45-55) together specifying a label switched path for said communications session.

Referring to claim 12, Wang et al. discloses a label switched communications network in which communications sessions are established on respective label switched paths each encapsulated (encapsulation, col. 2 lines 60-65, col. 5 lines 49-57, col. 10

lines 46-53, col. 13 lines 1-5, col. 16 lines 16-30; encapsulated, col. 3 lines 5-10, col. 11 line 61 - col. 12 line 8, col. 13 lines 6-29, col. 14 lines 19-30, col. 15 lines 20-40 and col. 16 lines 30-32) within an existing label switched path between a first node (Fig. 1 ref. signs 3 and 5 and respective portions of the spec.) and a second node (Fig. 1 ref. sign 4 and respective portions of the spec.), the network comprising: message sending means disposed at the start node for sending a path set up message (setup message, col. 9 line 61 - col. 10 line 8) from the start node to the destination node, wherein said path set up message incorporates an explicit route object containing a tunnel identifier (identifier, col. 8 lines 45-55) for said existing label switched path and an extended tunnel identifier, said tunnel identifier (identifier, col. 8 lines 45-55) and extended tunnel identifier (identifier, col. 8 lines 45-55) together specifying the label switched path for said communication session.

Referring to claim 14, Wang et al. discloses a network as claimed in claim 12, wherein a reservation for the encapsulated session indicated by the tunnel identifier is established at each traversed node along (travel along, col. 8 lines 50-55) the path for said communication session.

Referring to claim 15, Wang et al. discloses a network as claimed in claim 12, wherein a path reservation is made only at either end (either end, col. 1 lines 60-64 and end points, col. 5 lines 10-16) of the existing label switched path within which the path for the communications session has been routed.

Referring to claim 16, Wang et al. discloses a network as claimed in claim 14, wherein recursive label stacks (stack, col. 6 lines 13-47) are established on an as-needed basis between said first and second nodes.

Referring to claim 17, Wang et al. discloses a network node for use in a multi-protocol label switched communications network (MPLS, col. 5 lines 3-15) in which communications sessions are established on respective label switched paths each encapsulated (encapsulation, col. 2 lines 60-65, col. 5 lines 49-57, col. 10 lines 46-53, col. 13 lines 1-5, col. 16 lines 16-30; encapsulated, col. 3 lines 5-10, col. 11 line 61 - col. 12 line 8, col. 13 lines 6-29, col. 14 lines 19-30, col. 15 lines 20-40 and col. 16 lines 30-32) within an existing label switched path between said node (Fig. 1 ref. signs 3 and 5 and respective portions of the spec.) and a further node (Fig. 1 ref. sign 4 and respective portions of the spec.), the network node comprising: message sending means for sending a path set up message (setup message, col. 9 line 61 - col. 10 line 8) to the further node, wherein said path set up message incorporates an explicit route object containing a tunnel identifier (identifier, col. 8 lines 45-55) together specifying the label switched path for said communications session.

Referring to claim 18, Wang et al. discloses a method of setting up a communications session via a tunnel between first (Fig. 1 ref. signs 3 and 5 and respective portions of the spec.) and second nodes (Fig. 1 ref. sign 4 and respective portions of the spec.), the method comprising: sending a path set up message (setup message, col. 9 line 61 - col. 10 line 8) from the first node (Fig. 1 ref. signs 3 and 5 and respective portions of the spec.) to the second node (Fig. 1 ref. sign 4 and respective

portions of the spec.), wherein said path set up message (setup message, col. 9 line 61 - col. 10 line 8) incorporates an explicit route object containing a session object comprising a tunnel end point address (identifier, col. 8 lines 45-55) uniquely specifying a label switched path for said communications session.

Allowable Subject Matter

8. Claim 9 is allowed.

9. Claims 2-5 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (571) 272-3143. The examiner can normally be reached on Monday-Friday 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to 2600 Customer Service whose telephone number is (571) 272-2600.

Jamal A. Fox

WELLINGTON CHIN
SUPERVISORY PATENT EXAMINER